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Long Beach manager letter support SB 54

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Date: September 18, 2017

To: Mayor and Members of the City Council

From: Patrick H. West, City Manager *T.H.W.*

Subject: City Policy Related to Immigration and Customs Enforcement

In anticipation of the September 19, 2017 City Council agenda item #23, Long Beach Values Act of 2017, we would like to take the opportunity to provide additional information on the current policies of the Long Beach Police Department (LBPD), as well as a recent new development.

Current City Policy

The City has consistently supported the California Values Act (SB 54). Long Beach was the first major city in California to support the bill on February 7, 2017. Since that action, City staff have actively followed its progress through the Legislature. SB 54 was approved Saturday by the Legislature and is on its way to the Governor's desk for signature.

The practice of the LBPD is to comply with the California TRUST Act (AB 4), which prohibits local law enforcement from detaining a noncitizen, pursuant to an immigration hold, past the time the person is eligible for release from criminal custody. The exception to this practice would involve the receipt of a court order signed by a judge, oftentimes referred to as a "judicial warrant." The enforcement of federal immigration policy by local law enforcement risks undermining the relationship of trust and cooperation we desire to have with all the communities we serve, including immigrant communities. Additionally, the current practice of the LBPD is to not hold individuals on immigration violations.

Immigration and Customs Enforcement Activity in Long Beach

On occasion, Immigration and Customs Enforcement does conduct enforcement operations in our community. Although our LBPD does not keep records on the number of Immigration and Customs Enforcement operations conducted in the City, these operations are planned and performed by Immigration and Customs Enforcement and the federal government. They do not involve LBPD Officers for immigration enforcement actions. While LBPD does not keep records of these enforcement actions, as the LBPD does not participate in immigration enforcement actions, Immigration and Customs Enforcement has released statistics of some of the enforcement actions in the Los Angeles area, including Long Beach. Some examples of the data on enforcement actions include:

- August 31, 2015: 244 arrested in an operation in the Los Angeles area (no Long Beach stats provided);
- July 21, 2016: 112 arrested in a four-day operation in the Los Angeles area (no Long Beach stats provided);
- February 10, 2017: 161 arrested in a five-day operation in the Los Angeles area (no Long Beach stats provided); and,
- May 25, 2017: 188 arrested, including 8 from Long Beach, in a five-day operation.

Again, LBPD did not participate in any of these enforcement actions, but it is evident that enforcement has occurred over the past several years in our area.

Other Contacts with ICE and Homeland Security

LBPD does participate on the Los Angeles Border Enforcement Security Task Force (LABEST) through the Port of Long Beach, which requires collaboration with various federal agencies, including Immigration and Customs Enforcement. The focus of this task force is human trafficking and ensuring proper products are brought into the country. This is not an effort that addresses illegal immigration. Additionally, during any operation, LBPD will respond to an immediate need for emergency assistance (such as officer safety), as appropriate, as with any law enforcement request.

Administrative Warrants

LBPD recently became aware of an incident in which LBPD patrol officers encountered an “administrative warrant” from Immigration and Customs Enforcement, while conducting a traffic stop.

The LBPD’s current practice authorizes action on immigration requests where due process has been conducted and an official court order, signed by a judge, has been issued. A preliminary review of an Immigration and Customs Enforcement-issued administrative warrant appears similar to a valid criminal arrest warrant. However, upon further review, staff found that administrative warrants are issued by Immigration and Customs Enforcement agents and do not appear to be based upon a finding of probable cause for an alleged crime. These warrants are administrative documents that identify a person suspected of being subject to deportation and authorize designated immigration agents to take the identified person into custody. These warrants are not reviewed or issued by a court or judicial officer. The regulations for administrative warrants do not specify any probable cause requirement, or any other legal standard, that must be met.

On August 18, 2017, at approximately 4:10 a.m., officers conducted a traffic stop in the area of Atlantic Avenue and Pleasant Street. During the investigation, a routine warrant check was conducted on an occupant of the vehicle. The check revealed that the occupant had an administrative warrant issued by Immigration and Customs Enforcement for removal from the United States, and directed officers to contact Immigration and Customs Enforcement. Immigration and Customs Enforcement affirmed the validity of the warrant, and the occupant was subsequently released to an Immigration and Customs Enforcement officer.

LBDP Response to Future Administrative Warrants

Because the August 18, 2017 investigation took place in the field and did not involve an inmate in our jail, the LBDP is reviewing their field procedures when officers contact a person with an administrative warrant issued by Immigration and Customs Enforcement. Immediate steps have already been taken to inform LBDP officers about the difference between administrative warrants and judicial warrants. Also, all LBDP officers have received direction that administrative warrants are civil in nature, can only be enforced by federal agents, and do not provide local law enforcement agencies with a basis to prolong a detention or submit the individual to Immigration and Customs Enforcement. Additional training will be forthcoming on this matter, and the development and implementation of an LBDP policy is underway, which will provide guidelines for encounters involving immigration issues. In addition, we are currently conducting an audit of LBDP processes related to this incident and any prior encounters, which will take several weeks. The matter is also under administrative review with the Internal Affairs Division.

cc: Charles Parkin, City Attorney
Doug Haubert, City Prosecutor
Laura L. Doud, City Auditor
Tom Modica, Assistant City Manager
Kevin Jackson, Deputy City Manager
Robert Luna, Chief of Police
Rebecca Jimenez, Assistant to the City Manager